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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,085	03/16/2004	Robert A. Koch	BS00097CIP1	4042

7590 09/07/2005
Scott P. Zimmerman
P.O. Box 3822
Cary, NC 27519

EXAMINER

CHOW, MING

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/802,085	KOCH, ROBERT A.	
	Examiner	Art Unit	
	Ming Chow	2645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-13 and 15-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 3, 5, 6, 8, 9, 11-13, 15-17, 21, 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilk (US: 6768789).

For claims 1, 5, 8, 9, 12, 15, 21, 22, Wilk teaches on column 2 line 20-28, an incoming call from a caller, a storage device for storing predefined outgoing messages, and output the selected message to the caller (claimed “communicating the pre-created data message to the originating party”).

Regarding claims 3, 11, see column 3 line 65-67.

Regarding claims 6, 13, see column 10 line 62-67.

Regarding claim 16, see column 4 line 19-25.

Regarding claim 17, see column 6 line 5-12.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilk as applied to claim 1 above.

Wilk teach on column 6 line 1-2, the caller sends SMS messages. Therefore, the network (item 44 Fig. 1) is an internet protocol network.

Wilk teaches on column 7 line 49-51, the message is a text message.

Wilk failed to teach sending the text message via an IP network. However, "Official Notice" is taken that sending the text messages via the IP network as taught by Wilk to a caller is obvious, old and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Wilk to have the "sending the text message via an IP network" such that the modified system of Wilk would be able to support the system users convenience of sending pre-created messages to the caller via IP network.

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilk as applied to claim 1 above.

Wilk teaches on column 7 line 49, the pre-created message is a text message. Wilk teaches on column 7 line 37-40, the system has paging (sending out pages) functions. Wilk failed to teach "communicating the pre-created data message via a pager network". However, "Official Notice" is taken that sending the pre-created text message by using the paging capability as taught by Wilk is obvious, old, and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Wilk to have the "communicating the pre-created data message via a pager network" such that the modified system of Wilk would be able to support the system users convenience of sending pre-created messages to the caller via a pager network.

4. Claims 18, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilk as applied to claim 16 above, in view of Ericson (US: 6666376).

Wilk failed to teach “entries in an electronic calendar”. However, Ericson teaches on Fig. 3, an electronic calendar with meeting schedules.

It would have been obvious to one skilled at the time the invention was made to modify Wilk to have the “entries in an electronic calendar” such that the modified system of Wilk would be able to support the system users convenience of associating an additional condition that is specified on an electronic calendar.

Response to Arguments

5. Applicant's arguments filed on 6/13/05 have been fully considered but they are not persuasive.

- i) Applicant argues, on page 6, regarding “communicating data message to the originating party”. Wilk teaches on column 3 line 21-22, the storage device is a RAID. The RAID is a digital data storage device. Therefore, the predefined outgoing messages stored on the RAID as taught by Wilk is a “data message”.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (571) 272-7535. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or

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proceeding should be directed to the Customer Service whose telephone number is (571) 272-

2600. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Or faxed to Central FAX Number 571-273-8300.

Patent Examiner

Art Unit 2645

Ming Chow



FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600